

JOHN SAIN, Pro Se
TDCJ ID# 01373168
O.L. Luther Unit (P2)
1800 Luther Dr.
Navasota, TX 77868-4714

RECEIVED IN CHAMBERS

SEP 30 2019

LEE H. ROSENTHAL
CHIEF U.S. DISTRICT JUDGE

September 23, 2019
Clerk of Courts
515 Rusk Street
Houston, Tx 77002

or

Clerk of Courts
P.O. Box 61010
Houston, Tx 77208

Re: Civil Action No. 4:18-cv-04412

Style: Plaintiffs' Motion and Notice

Dear Clerk,

Please find included and file the below:

NOTICE TO APPEAL

Please bring these filings to the attention of the Court for a hearing and rulings.

Thank you for your assistance filing and initiating this Motion.

For questions and immediate assistance filing, please phone Tim Sain @ 817-307-9087 or @ T.Sain@yahoo.com

I can be contacted at the address listed above.

Respectfully,


JOHN SAIN, Pro Se

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOHN SAIN, DAVID CUMMINGS,
PHILLIP GULLETT,
and DAVID WILSON,
individually and on behalf of those similarly situated.

Plaintiffs,

V.

BRYAN COLLIER, in his official capacity,
JAMES MCKEE, in his official capacity,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,

Defendants.

[illegible]

CIVIL ACTION NO.
4:18-cv-04412

NOTICE TO APPEAL

Notice is hereby given that John Sain, et. al., named Plaintiffs in the above named and numbered case, hereby appeal to the United States Court of Appeals for the Fifth Circuit from the Courts Order Docket Entry 120, MEMORANDUM OPINION AND ORDER

Entered in this Action on the 30th Day of August, 2019.

Respectfully Submitted,

Dated: September 23, 2019

CERTIFICATE OF CONFERENCE

Whereby their signatures below, Plaintiffs do hereby certify/declare that a conference is not possible because Plaintiffs are incarcerated in Texas Department of Criminal Justice, Institutional Division, and are proceeding Pro Se in this cause. Plaintiffs will not speculate on whether the Defendants oppose this motion.

CERTIFICATE OF SERVICE

Whereby their signatures below, Plaintiffs do hereby certify/declare that true and correct copies of the foregoing document was forwarded via U.S. First Class Mail, postage pre-paid, to the following parties:

- a. Bryan Collier
TDCJ Executive Director
Texas Department of Criminal Justice
- b. James McKee
Warden
O.L Luther Unit (P2)
- c. Texas Department of Criminal Justice
c/o Bryan Collier
TDCJ Executive Director

Service was perfected to the above Defendants through their Attorneys of Record for Service:

Todd Disher
Attorney In Charge
Office of Attorney General of Texas
209 W 14th, 8th Floor
Austin, TX 78701

Leah Jean O'Leary
Office of the Attorney General
Law Enforcement Defense Division
P.O. Box 12548 Capital Station
Austin, TX 78711-2548

CERTIFICATE OF MAILING

Whereby their signatures below, Plaintiffs do hereby certify/declare that the foregoing document was delivered to the United States Post Office for processing (U.S. First Class postage, pre-paid).

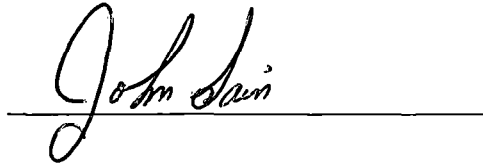
Pursuant to Fed. R. App. P. Rule 25 (a)(2)(A)(iii), "Mailbox Rule," Pro se documents filed at the time they are placed in the institutional mailing system for processing.

INMATE DECLARATION

We, the Plaintiffs listed below, being over 18 years of age, of sound mind, capable of making this declaration due to the facts that we: suffer from and/or experience(d) one or more of the conditions described; attended consultations with qualified medical and other professionals; having been trained by medical personnel to recognize and treat complications due to illness/heat/cold; having studied materials listed under Fed. R. Civ. P. Rule 902; through our personal observations; and due to belief and empirical knowledge that the facts stated above; pursuant to 28 U.S.C. § 1746, do hereby declare under penalty of perjury that the foregoing is true and correct from personal knowledge.

Executed on September 23, 2019

JOHN SAIN, Pro Se
TDCJ ID# 01373168
O.L. Luther Unit (P2)
1800 Luther Dr.
Navasota, TX 77868-4714

A handwritten signature in cursive script, reading "John Sain", written over a horizontal line.

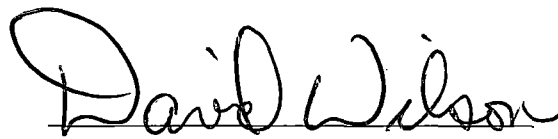
DAVID CUMMINGS, Pro Se
TDCJ ID# 02153663
O.L. Luther Unit (P2)
1800 Luther Dr.
Navasota, TX 77868-4714

A handwritten signature in cursive script, reading "David Cummings", written over a horizontal line.

PHILLIP GULLETT, Pro Se
TDCJ ID# 01672020
O.L. Luther Unit (P2)
1800 Luther Dr.
Navasota, TX 77868-4714

A handwritten signature in cursive script, reading "Phillip Gullett", written over a horizontal line.

DAVID WILSON, Pro Se
TDCJ ID# 01648044
O.L. Luther Unit (P2)
1800 Luther Dr.
Navasota, TX 77868-4714

A handwritten signature in cursive script, reading "David Wilson", written over a horizontal line.